

IN THE UNITED STATES DISTRICT COURT  
WESTERN DIVISION OF TEXAS  
AUSTIN DIVISION

BONNIE CRANKSHAW

Plaintiff

v.

CITY OF ELGIN AND THOMAS  
MATTIS, CITY MANAGER, IN  
HIS INDIVIDUAL CAPACITY

Defendants

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Case 1:18-cv-00075-RP

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**DEFENDANTS' MOTION TO ENTER JUDGMENT**

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TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

NOW COME Defendants City of Elgin and Thomas Mattis (collectively "Defendants"), and file this Motion to Enter Judgment:

**I. PROCEDURAL HISTORY**

Plaintiff Bonnie Crankshaw sued the City of Elgin and City Manager Thomas Mattis for (1) FMLA Interference, (2) FMLA Retaliation, (3) ADA Discrimination, (4) ADA Failure to Accommodate, and (5) ADA Retaliation.

After a full trial, the Court submitted the case to the jury. Attached is Exhibit "A", which is the charge of the Court and the jury's verdict. On May 23, 2019, the Jury returned its verdict and found for the Defendants on all causes of action, except for Plaintiff's cause of action on (1) FMLA Interference.<sup>1</sup> Accordingly, the ladies and gentlemen of the jury awarded Plaintiff Crankshaw \$19,660.00.

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<sup>1</sup> See generally Court's Charge, Dkt # 67; See also Verdict Form, 14, Dkt # 71. (Defendant City of Elgin stipulated to liability on a technical violation of the FMLA).

The Defendants now request that the Court order the clerk to enter Judgment, and Order that Plaintiff Bonnie Crankshaw take \$19,660.00 as a result of her lawsuit against the Defendants—and nothing more.<sup>2</sup>

## **II. ARGUMENT**

Upon the Jury's verdict, Plaintiff's counsel gave oral notice to the Court and the Defense that Plaintiff's counsel intended to file a motion for attorney's fees under Federal Rules of Civil Procedure.<sup>3</sup> The Court responded that Plaintiff's counsel would have two to three weeks to file such a motion. As of the time of this writing, it has been more than seven weeks since Court gave this oral order on May 23, 2019.<sup>4</sup> If a party does not file a motion for attorney fees before a deadline, it waives its right to them.<sup>5</sup>

Accordingly, since the jury has returned a general verdict, and the Plaintiff has waived her right to recover attorney's fees, and the clerk has not promptly prepared, signed and entered a judgment in a separate document, the Defense hereby moves for the Clerk of this Court to enter Judgment on this matter under Federal Rule of Civil Procedure 58(d).<sup>6</sup>

## **III. PRAYER**

WHEREFORE PREMISES CONSIDERED, Defendants pray that this Court grant Defendants' Motion to Enter Judgment, and thereby enter final judgment in which Plaintiff and Defendants be responsible for their own respective costs.

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<sup>2</sup> Allowing for any applicable interest that may have accrued on the awarded sum of \$19,660.00.

<sup>3</sup> See FED. R. CIV. P. 54(d)(2)(A) – 54(d)(2)(B)(i).

<sup>4</sup> See *id.* (Under the rules, a Court's order can properly set the deadline for a motion to file attorney's fees).

<sup>5</sup> See *Sol Salins, Inc. v. W.M. Eracanbrack Co.*, 155 F.R.D. 4, 5 (D.D.C.1994); see *Brown & Pipkins, LLC v. Service Empls. Int'l Un., Local 32BJ*, 846 F.3d 716, 730 – 31 (4th Cir.2017); *Villoldo v. Ruz*, 821 F.3d 196, 204 (1st Cir.2016); *Port of Stockton v. Western Bulk Carrier KS*, 371 F.3d 1119, 1121 – 22 (9th Cir.2004).

<sup>6</sup> See FED. R. CIV. P. 58(d); 2002 Notes to Rule 58.

Respectfully submitted,

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/s/ Archie Carl Pierce  
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**ATTORNEYS FOR DEFENDANTS  
CITY OF ELGIN AND THOMAS  
MATTIS**

**CERTIFICATE OF CONFERENCE**

Defendants' counsel contacted Plaintiff's counsel and have conferred about this Motion to Enter Judgment. Plaintiff's counsel is opposed.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 15 day of July, 2019, a true and correct copy of the above and foregoing Motion was electronically filed with the Clerk of the Court using the CM/ECF system which will automatically serve a Notice of Electronic Filing on the following counsel of record:

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/s/ Archie Carl Pierce  
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